IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 16792 of 1998
DATE OF DECISION: November 22, 2007

Ram Murti Sharma

…Petitioner

Versus

Chandigarh Industrial & Tourism Development Corporation Ltd. and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

Present: Mr. Y.P. Malik, Advocate,
for the petitioner.

None for the respondents.

JUDGMENT

M.M. KUMAR, J.

In this petition filed under Article 226 of the Constitution the petitioner prays for quashing order dated 3.8.1998, passed by the Chandigarh Industrial and Tourism Development Corporation Limited (for brevity `CITCO')-respondent No. 1. The representation made by the petitioner has been rejected by the aforementioned order wherein the petitioner has claimed that he was entitled to the grant of regular pay scale of Rs. 950-1500 with effect from 7.4.1989 to 14.12.1989 as he was considered for appointment as T.V. Operator in pursuance to requisition dated 3.2.1989 (P-4) sent to

employment exchange. In the requisition, pay scale of Rs. 950-1500 was prescribed for the post of T.V. and Audio Operator.

Facts in brief are that the respondent Corporation sent a requisition dated 2.3.1989 to the Employment Exchange for the post of T.V/Audio Operator in the pay scale of Rs. 950-1500 (P-4). The petitioner was interviewed on 16.3.1989 and was appointed as T.V Operator. In the appointment letter dated 7.4.1989 (P-6) instead of granting pay scale of Rs. 950-1500 it was stipulated that the petitioner was to be paid at D.C. rates fixed from time to time. It is claimed that the petitioner joined his duties w.e.f. 19.4.1989 and then he filed an application for grant of regular pay scale w.e.f. 19.4.1989. Thereafter an advertisement for the same post was issued and the petitioner applied. He appeared for interview. As he was again found suitable, the petitioner was issued another appointment letter on 14.12.1989 with the pay scale of Rs. 950-1500 (P-8). The grievance of the petitioner is that w.e.f. 19.4.1989 till 14.12.1989, he is entitled to the regular pay scale of Rs. 950-1500 instead of consolidated pay as per the rules fixed by the Deputy Commissioner. To that effect the petitioner made a representation. When that representation was not decided, he filed C.W.P. No. 12497 of 1996, which was disposed of on 18.2.1998, directing the respondents to consider the case of the petitioner by passing a speaking order on the representation. Accordingly, the representation made by the petitioner was rejected vide order dated 3.8.1998 (P-11), which in addition is subject matter of challenge in the instant petition.

The case of the petitioner has been opposed by filing written statement. The stand taken is that the petitioner was appointed initially w.e.f. 19.4.1989 by a requisition sent to the Employment Exchange on a consolidated salary on Deputy Commissioner rates for a period of one year. It was thereafter that the post was advertised in the newspaper and on the basis of qualification, experience and performance in the interview, the petitioner was selected and this time he was offered appointment in the pay scale of Rs. 950-1500. Subsequent appointment is claimed to be fresh appointment in the regular pay scale of Rs. 950-1500. The stand taken in impugned order dated 3.8.1998 (P-11) in rejecting the representation made by the petitioner, has been repeated in the written statement.

Mr. Y.P. Malik, learned counsel for the petitioner has argued that the case of the petitioner is squarely covered by a Division Bench judgment of this Court in the case of Darshan Singh and others v. CITCO and another (C.W.P. No. 7269 of 1996, decided on 10.11.1997, Annexure P-10). According to learned counsel in that case also some persons were appointed as Assistant Bakery-men against an advertisement. For the aforementioned post pay scale of Rs. 950-1500 was advertised, however, in the appointment letter consolidated pay of Rs. 825/- per month was given to some whereas some others were given the consolidated pay of Rs. 1,000/-. They had joined duties and subsequently after a period of one year they were regularised and then pay scale of Rs. 950-1500 was given. The claim by them that they were entitled to regular pay scale of Rs. 950-

1500 was allowed by this Court. In the aforementioned judgment, the reasoning adopted was that those petitioners were interviewed for the post of Assistant Bakery-men, which post was offered to them by the appointment letter and they were eventually regularised on the post of Assistant Bakery-men and, therefore, once the advertisement giving a particular pay scale had been issued, a lower pay scale cannot be given for the same post.

No one has put in appearance on behalf of the respondents to oppose the petition.

After hearing learned counsel I am of the considered view that the claim made by the petitioner deserves to be accepted as the requisition sent to the Employment Exchange on 3.2.1989 (P-4) categorically postulate that the post of T.V./Audio Operator was in the pay scale of Rs. 950-1500. The name of the petitioner was sponsored by the Employment Exchange against the aforementioned post carrying the pay scale of Rs. 950-1500. However, in the appointment letter a consolidated pay was given. Once it is held out to the petitioner that he would get 950-1500 then it would not be fair for the CITCO to resile from that commitment. There was no reason for the respondents to vary term of requisition wherein pay scale of Rs. 950-1500 was mentioned. In any case the controversy is squarely covered by the Division Bench judgment of this Court in the case of Darshan Singh (supra). Therefore, the writ petition deserves to be allowed.

For the reasons aforementioned, this petition succeeds. The order dated 3.8.1998 (P-11) rejecting the representation of the

petitioner is quashed. The respondents are directed to grant the petitioner regular pay scale of Rs. 950-1500 as per the requisition sent to the Employment Exchange for the post of T.V./Audio Operator w.e.f. 19.4.1989 to 14.12.1989. The arrears shall be paid to the petitioner within a period of two months from the date of receipt of copy of this order.

The writ petition stands disposed of in the above terms.

(M.M. KUMAR)
JUDGE

November 22, 2007
Pkapoor